

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BENJAMIN STEPHENS, JR.,

Plaintiff,

-v-

D. VENETOZZI, et al.,

Defendants.
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**USDC-SDNY
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DATE FILED: 03/10/2016**

No. 13 Civ. 5779 (RA)

OPINION ADOPTING
REPORT & RECOMMENDATION

RONNIE ABRAMS, United States District Judge:

Plaintiff Benjamin Stevens initiated this action under 42 U.S.C. § 1983 on August 15, 2013, alleging violations of his constitutional rights while imprisoned at Green Haven Correctional Facility. On December 8, 2014, Plaintiff amended his complaint. On June 19, 2015, fourteen Defendants moved to dismiss the amended complaint, eleven of whom Plaintiff voluntarily dismissed. *See* Dkt. 118, 142. The motions of Defendants Superintendent William A. Lee, Correction Officer Robert Snedeker, and Correction Officer Daniel D'Angelico remain before this Court, as well as that of Defendant Hann who filed a separate motion to dismiss on November 9, 2015.¹ The Court referred both motions to Magistrate Judge Freeman. *See* Dkt. 125, 153. On February 24, 2016, Judge Freeman issued a detailed and well-reasoned 51-page Report & Recommendation (the "Report"), recommending that this Court deny Defendants' motions with the exception of Defendant Lee's motion to dismiss the failure-to-protect claim stemming from the alleged March 23, 2012 assault. *See* Dkt. 176. With respect to this failure-to-protect claim, the Report recommends that this Court allow Plaintiff to amend the complaint to plead any additional facts. The Court has received no objections despite the Report's warning

¹ Although Plaintiff filed this action and amended his complaint *pro se*, the Court appointed counsel on June 22, 2015 to assist him in responding to Defendants' motions to dismiss. *See* Dkt. 123.

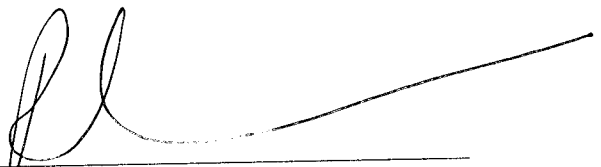
that “failure to file objections within fourteen (14) days will result in a waiver of objections and will preclude appellate review.” Report at 50 (emphasis omitted).

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may object to a magistrate judge’s recommended findings “[w]ithin 14 days after being served with a copy of the recommended disposition.” Fed. R. Civ. P. 72(b)(2). “When the parties make no objections to the Report, the Court may adopt the Report if ‘there is no clear error on the face of the record.’” *Smith v. Corizon Health Services*, No. 14-CV-8839 (GBD), 2015 WL 6123563, at *1 (S.D.N.Y. Oct. 16, 2015) (quoting *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005)).

The Court has reviewed the Report for clear error and found none. Accordingly, the Court adopts the Report in its entirety. Plaintiff may amend his complaint on or before April 11, 2016.

SO ORDERED.

Dated: March 10, 2016
New York, New York



Ronnie Abrams
United States District Judge